

PUBLIC WORKS & UTILITIES COMMITTEE

11-0420R

RESOLUTION AUTHORIZING APPLICATION TO MNDNR FOR  
EASEMENTS FOR THE RIVERSIDE UTILITY & STREET IMPROVEMENT  
PROJECT AT A COST OF \$4,000.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to apply, in substantially the form of that application on file in the office of the city clerk as Public Document No. \_\_\_\_\_, to the Minnesota state department of natural resources for road and bridge easements for the Riverside Utility and Street Improvement Project over and on property related to the Munger Trail at a cost of \$4,000, payable from the Street Improvement Fund 440, Department 038 Special Assessment Contracts, Object 5530, Project No. 0699SN/TR.

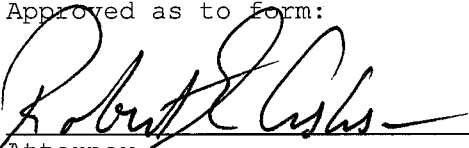
Approved:

  
\_\_\_\_\_  
Department Director


Approved for presentation to council:

  
\_\_\_\_\_  
Chief Administrative Officer

Approved as to form:

  
\_\_\_\_\_  
Attorney

Approved:

  
\_\_\_\_\_  
Auditor

PW&U/ATTY REA:dma 08/04/2011

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize the City to apply to the MnDNR for easements needed in conjunction with the Riverside Utility and Street Improvement Project.

As part of that project, the City will need an easement over the Munger Trail to allow it to build a bridge over the trail for Spring Street northwest of Industrial Avenue. In addition the City will need an easement along the side of the trail to build an access road to serve properties southeast of the trail.

DNR procedure requires Council authorization of the application for the easements as well as an application fee of \$2,000 per easement. If the easement is granted, the City will be required to pay an easement fee and a monitoring fee which will be determined later by the DNR and will be subject to Council approval when the easements are accepted.

Easement No. 133-  
Project Number 0694SN/0694TR

STATE OF MINNESOTA  
APPLICATION FOR EASEMENT  
ACROSS STATE LAND

(SUBMIT 1 COPY OF THE APPLICATION AND ATTACHMENTS)

The applicant, pursuant to Minn. Stat., secs. 84.63, 84.631, or 85.015, subd. 1(b), applies for an Easement to Cross State Land described below, in accordance with all maps, plans, specifications and other supporting data submitted with this application and made a part hereof.

Name of Applicant (PRINT OR TYPE) <b>CITY OF DULUTH</b>	
Address (mailing and e-mail) <b>RM 201, 411 West First Street, Duluth, MN 55802</b> <b>mguisfredi@duluthmn.gov</b>	
Contact Person <b>MARK Guisfredi</b>	Telephone Numbers <b>218-730-5076</b>

1. EASEMENT: (check one) ☒ Road ☐ Access ☐ Pre-existing trail ☐ Other \_\_\_\_\_ Please specify
2. Number consecutively and identify fully each easement applied for.

No.	Forty or government lot	Sec	Twp	Rge	County	Type of Easement (Permanent or Temporary)	Total Acres	Date of Completion (if Temporary)
1	SE 1/4 & SW 1/4	23	49N	15W	St Louis	PERMANENT	0.26	
2	SE 1/4 & SW 1/4	23	49N	15W	St Louis	PERMANENT	0.415	

3. Provide a detailed legal description and map for each easement applied for. Whenever possible, include a survey of the requested easement. For construction or re-construction easement applications include construction plans and profiles.
4. If government entity, attach County Board or Township resolution.
5. Attach application fee of \$2,000. Make check payable to the Department of Natural Resources.

Any written correspondence from the Department of Natural Resources relating to this proposed project must be included with this application and will become a part of this easement record. Environmental and archeological reviews must be completed before easement can be acted on

## Instructions for Completing Application for Easement Across State Land

The DNR may grant permanent and temporary easements to *governmental units across all DNR-administered lands* and to *individuals or corporations over non-school trust land*. Such easements may only be granted if they do not interfere with management of land for natural resources and environmental purposes, no satisfactory access alternative to the easement exists, and there are no statutory or policy limitations. Easements are granted under Minnesota Statutes, sections 84.63, 84.631 and 85.015, subd. 1(b).

Steps for completing an Application for Easement Across State Land:

**1. Contact the Regional Supervisor for the Division of Lands & Minerals.** The Regional Supervisor will identify the DNR's Area Manager responsible for managing the land over which you are requesting an easement and can answer questions about the review process.

Northwest Region (1)  
DNR, Division of Lands and Minerals  
2115 Birchmont Beach Rd.  
Bemidji, MN 56601  
218-308-2627

Northeast Region (2)  
DNR, Division of Lands & Minerals  
NE 1201 East Highway  
Grand Rapids, MN 55744  
218-999-7894

Central Region (3)  
DNR, Division of Lands & Minerals  
1200 Warner Rd.  
St. Paul, MN 55106  
651-259-5792

Southern Region (4)  
DNR, Division of Lands & Minerals  
261 Highway 15 South  
New Ulm, MN 56073  
507-359-6071

**2. Meet on-site with the DNR Area Manager prior to submitting the Application.** This meeting should occur in the conceptual stages of a project so the Area Manager's recommendations can be incorporated into project plans. Items for discussion may include land ownership, resource and environmental concerns, access, routes, plans, drainage, erosion control, wetlands, revegetation, etc. Incorporating the Area Manager's recommendations will expedite the DNR's review.

**3. Complete the Application for Easement Across State Land.** The checklist below should assist the applicant in completing the Application. An *Easement Number* will be assigned by the DNR when the application is received and processed by the Division of Lands and Minerals.

### Application

✓ **Applicant's Project Number:** Fill in your project number, if applicable, so it may be referenced on correspondence from Division of Lands and Minerals.

✓ **Name and Address:** Fill in the exact name(s) of the individual(s) or agency to whom the easement should be issued. Provide the mailing address and phone number of the same. Please note that the *DNR cannot issue an easement over school trust land to a private individual*. This request must come from the local unit of government that is the official road authority; this is usually a City, Township, or County.

✓ **Contact Person and Telephone Numbers:** When the applicant is represented by another party in obtaining the easement, that party should be identified by name, address and/or phone number. Otherwise indicate a specific individual applicant, or officer, as contact.

✓ **Section I. Easement:** Check the appropriate box. If "other" is checked, please specify. For example: flowage.

✓ **Section II. Number and describe each forty:** Starting at number one, list each forty or government lot. Separate permanent easements from temporary. There must be a beginning and ending date if the easement is temporary. Be sure to allow adequate time if temporary. Each forty or lot crossed must be listed on a separate line.

✓ **Section IV. Government Entity:** Attach a copy of the County Board or Township resolution which authorizes the application for the easement. The application is not complete without the resolution.

If this is a "segmented" easement and will not connect your ownership to a public road, provide documentation of easements for the remaining land being crossed to connect with a public road.

### Application Attachments:

✓ **Exact legal description of easement (required).**

~~N.A.~~ **Deed:** If the easement is to provide access to private land, include a copy of their deed so the easement can be issued for the benefit of access to the property described on the deed.

✓ **Legal survey or detailed location map (required).**

✓ **Plans (if applicable)** for construction, cross sections, erosion control, drainage, re-vegetation and other relevant documentation. These items must be included for public road projects. For other types of construction projects please contact the Area Manager or Regional Land and Minerals Supervisor to determine what plans will be required.

~~N.A.~~ **Environmental review documentation (if applicable, please advise us of environmental review status).**

~~N.A.~~ **Wetland documentation (if applicable).**

~~N.A.~~ **Federal Aid Documentation (if DNR advises the easement is over land acquired with federal aid).**

~~N.A.~~ **Appraisal (optional):** The DNR may accept an appraisal done by an appraiser with the appropriate Minnesota license. The appraisal will need to meet USPAP guidelines and possibly Federal Aid guidelines. Please contact the Regional Supervisor to determine if Federal Aid guidelines are applicable. The DNR will review the appraisal for acceptance. Submitting an acceptable appraisal should expedite the processing of the easement. If one is not submitted, the state will calculate the appropriate easement fee during the processing of the application.

**4. Mail one copy of the application, attachments, and the application fee to:**

DNR, Division of Lands and Minerals, 500 Lafayette Road, St. Paul, MN 55155-4045.

**Application Processing:**

*The application process may take several months.* Once the application is received, it will be assigned an easement number. An acknowledgment letter will be sent to the applicant or contact person indicating receipt and the number assigned. The Survey Unit will review the legal description for approval. *Depending on how the property was obtained by the DNR, the application may need review and approval by a Federal agency. Federal review may delay processing of the easement.* After the easement application package is submitted, it will be reviewed by all appropriate divisions within the DNR. This will result in approval, approval with additional recommendations and conditions, or denial of the easement.

**Easement fee:** DNR Regional staff will review the request and complete a valuation of the land if an appraisal has not been submitted. If an appraisal has been submitted, it will be reviewed by the DNR and either accepted or rejected. The DNR will calculate an easement fee which is payment for the market value of the easement. The fee for a temporary easement is 50% of the market value.

**Monitoring fee:** Applicants proposing projects that require the preparation of special terms and conditions and/or monitoring during construction will be assessed a Monitoring Fee. The Monitoring Fee is to cover the projected reasonable costs to ensure proper construction. Upon receipt of an application for an easement across state land, DNR will determine if a Monitoring Fee is needed. DNR will provide the applicant with an estimate of the Monitoring Fee prior to the issuance of the easement.

Once the valuation has been completed and all approvals are obtained, the applicant will be sent a letter asking for the easement fee and, if applicable, the monitoring fee. DNR will not issue the easement document until the applicant has paid all fees in full. Once payment is received, the easement document will be prepared by Division of Lands and Minerals and sent to the Minnesota Attorney General's Office for review and signature. The applicant is then provided the completed easement. It is recommended that the easement be recorded in the office of the county recorder.

Upon completion of construction of the easement, DNR will refund any unused balance of the monitoring fee payment.

**Please note:**

*Utilities* may not be placed in an area covered by a road easement on DNR-administered lands without a utility license to cross public lands. Utilities mean lines, cables, and conduits for telephone, fiber optic, or electric power, and pipelines for gases, liquids, or solids in suspension, and any other such items covered by the licensing requirements of Minnesota Statutes, section 84.415. Please request an Application for License to Cross Public Lands & Waters from the Regional Supervisor.

